

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

JOSHUA KENNETH STEAD,

Defendant-Appellant.

UNPUBLISHED
February 9, 2006
APPROVED FOR
PUBLICATION
April 11, 2006
9:00 a.m.

No. 257549
Antrim Circuit Court
LC No. 04-003748-FH

Official Reported Version

Before: Borrello, P.J., and Sawyer and Fitzgerald, JJ.

PER CURIAM.

Defendant was convicted by a jury of possession of less than 25 grams of heroin, MCL 333.7403(2)(a)(v). The trial court sentenced defendant as a fourth-offense habitual offender, MCL 769.12, to 30 to 180 months' imprisonment, to be served consecutively to an earlier sentence from which he was on parole¹ and without jail credit. Defendant appeals as of right. We affirm.

Defendant's presentence investigation report recommended a prison sentence "with credit for 159 days served." Defendant's sole issue on appeal is whether the trial court erred in declining to apply that time against his sentence for the instant conviction.

Consecutive sentences may be imposed only when specifically authorized by statute. *People v Brown*, 220 Mich App 680, 682; 560 NW2d 80 (1996). Statutory interpretation is a question of law calling for review de novo. *People v Denio*, 454 Mich 691, 698; 564 NW2d 13 (1997). MCL 769.11b provides that if a sentencing court has before it a convict who has served time in jail before sentencing because he or she could not afford or was denied bond, the court must credit that person with time served. MCL 768.7a(2) directs that sentences of persons convicted of felonies committed while on parole for earlier offenses "begin to run at the

¹ According to the presentence investigation report, the earlier offense was second-degree home invasion, MCL 750.110a(3).

expiration of the remaining portion of the term of imprisonment imposed for the previous offense." This appeal concerns the interplay between these two statutes.

"When a parolee is arrested for a new criminal offense, he is held on a parole detainer until he is convicted of that offense, and he is not entitled to credit for time served in jail on the sentence for the new offense." *People v Seiders*, 262 Mich App 702, 705; 686 NW2d 821 (2004). Instead, a parole detainee convicted of a new offense is entitled to have jail credit applied exclusively to the sentence from which parole was granted. *Id.* Credit is not available to a parole detainee for time spent in jail attendant to a new offense because "bond is neither set nor denied when a defendant is held in jail on a parole detainer." *Id.* at 707.

Defendant's reliance on *Wayne Co Prosecutor v Dep't of Corrections*, 451 Mich 569; 548 NW2d 900 (1996), is misplaced. That case concerned the legislative desire to treat parolees who commit new crimes the same as prisoners or escapees who do so. *Id.* at 580. At issue was when the first sentence should end and the second should begin, not how jail credit was to be applied. See *id.* at 583-584.

There is no conflict between *Seiders* and *Wayne Co Prosecutor*. *Seiders* is binding on this Court. MCR 7.215(J)(1). We reject defendant's claim of error.

Affirmed.

/s/ Stephen L. Borrello
/s/ David H. Sawyer
/s/ E. Thomas Fitzgerald